In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.1574 of 2005.

Date of decision:30.8.2007.

Gurdyal and others.

...Petitioners.

Versus

Financial Commissioner and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice K. S. Garewal.

Hon'ble Mr. Justice S. N. Aggarwal.

...

Present; Mr. R. N. Lohan Advocate for the petitioners.

Mr. Anil Rathee, Additional Advocate General, Haryana.

Mr. Kulbhushan Sharma Advocate for respondent No.5.

...

Judgment.

S. N. Aggarwal, J.

The petitioners were co-owners with Ompati, respondent No.5. They owned land measuring 14 Kanals 4 Marlas comprised in Rectangle No.23, Killa No. 6/2 (4-13), 15/2 (3-11) and Rectangle No.30, Killa No.21/2 (6-0), situated in village Bishanpur, Tehsil Bawal, District Rewari. In the partition proceedings, respondent No.5 was given land in Rectangle No. 23 while the petitioners were given land in Rectangle Nos.23 and 30.

The order of partition passed by the Assistant Collector Ist Grade, respondent No.4, on 25.3.2003 (Annexure P-5) was challenged by

the petitioners by filing an appeal before the Collector, respondent No.3, who dismissed the appeal vide order dated 28.5.2003 (Annexure P-7). The revision petition was dismissed by the Commissioner on 27.5.2004 (Annexure P-9) while the ROR was dismissed by the Financial Commissioner, respondent No.1 on 7.10.2004 (Annexure P-11).

Hence, the present writ petition.

The submission of learned counsel for the petitioners was that respondent No.5 has been given land at one Kurra while the petitioners have been given land at two Kurras and the land given to respondent No.5 is of better quality. It was submitted that both the parties should have been given equal land in both the Kurras. Hence, it was prayed that the partition proceedings be set aside.

These submissions have been considered.

It has been made clear by the Assistant Collector in the order dated 25.3.2003 (Annexure P-5) that Ompati respondent was in possession of land comprised in Rectangle No.23 while Rectangle No.30 was lying vacant. The possession of respondent No.5 in Rectangle No.23 was protected and the petitioners were given land in Rectangle No.30 and the remaining land of their share was given in Rectangle No.23. It was also stated specifically in the order dated 25.3.2003 that the quality of land in both the Rectangles was the same.

The order passed by the Assistant Collector was up-held by the higher Revenue Courts.

We find that no illegality in the orders passed by the Revenue Courts. Since respondent No.5 was in possession of Rectangle No.23, therefore, her possession was to be protected. In partition proceedings,

Rectangle No.30 was given to the petitioners and the remaining land of their share was given to them out of Rectangle No.23. The impugned orders do not suffer from any illegality.

No merit.

Dismissed.

(S. N. Aggarwal)
Judge

August 30,2007.
Jaggi

(K. S. Garewal)
Judge